



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2018-0015; FRL-9976-45-Region 8]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Regional Haze State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Colorado on May 26, 2017, addressing regional haze. The EPA is proposing to approve source-specific revisions to the nitrogen oxides (NO_x) best available retrofit technology (BART) determination for Craig Station Unit 1. This unit is owned in part and operated by Tri-State Generation & Transmission Association, Inc. (Tri-State). We are also proposing to approve revisions to the NO_x reasonable progress determination for Tri-State's Nucla Station. The EPA is taking this action pursuant to section 110 of the Clean Air Act (CAA).

DATES: *Comments:* Written comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2018-0015, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information

(CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Jaslyn Dobrahner, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, (303) 312-6252, dobrahner.jaslyn@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean the EPA.

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- I. What Action is the EPA Taking?**

On December 31, 2012, the EPA approved a regional haze SIP revision submitted by the State of Colorado on May 25, 2011. The 2011 SIP revision included NO_x BART emission limits for Craig Station Units 1 and 2 near Craig, Colorado, and a NO_x reasonable progress emission limit for the Nucla Station located in Montrose County.¹ The State of Colorado submitted proposed revisions to the 2011 SIP submittal on May 26, 2017, that modify the NO_x BART determination for Craig Unit 1 and the NO_x reasonable progress determination for Nucla. The EPA is now proposing to approve those revisions. Specifically, the EPA is proposing to approve the State's revisions to the Craig Unit 1 NO_x BART determination that would require Craig Unit 1 to meet an annual NO_x emission limit of 4,065 tons per year (tpy) by December 31, 2019. The SIP revision would also require the unit to either (1) convert to natural gas by August 31, 2023, and if converting to natural gas, comply with a NO_x emission limit of 0.07 lb/MMBtu (30-day rolling average) beginning August 31, 2021, or (2) shut down by December 31, 2025. The EPA is also proposing to approve the State's revisions to the Nucla NO_x reasonable progress determination that would require the source to meet an annual NO_x emission limit of 952 tpy by January 1, 2020, and shut down on or before December 31, 2022.

II. Background

A. Requirements of the Clean Air Act and the EPA's Regional Haze Rule

In section 169A of the CAA, added by the 1977 Amendments to the Act, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section establishes "as a national goal the prevention of any future, and the remedying of

¹ 77 FR 76871 (December 31, 2012).

any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution.”² On December 2, 1980, the EPA promulgated regulations to address visibility impairment in Class I areas that is “reasonably attributable” to a single source or small group of sources.³ These regulations represented the first phase in addressing visibility impairment. The EPA deferred action on regional haze, which emanates from a variety of sources, until monitoring, modeling and scientific knowledge about the relationships between pollutants and visibility impairment were improved.⁴

Congress added section 169B to the CAA in 1990 to address regional haze issues. The EPA promulgated a rule to address regional haze on July 1, 1999.⁵ The Regional Haze Rule (RHR) revised the existing visibility regulations to integrate provisions addressing regional haze and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in the EPA’s visibility protection regulations at 40 CFR 51.300-51.309. The EPA revised the RHR on January 10, 2017.⁶

² 42 U.S.C. 7491(a). Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). In accordance with section 169A of the CAA, EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas which they consider to have visibility as an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to “mandatory Class I Federal areas.” Each mandatory Class I Federal area is the responsibility of a “Federal Land Manager.” 42 U.S.C. 7602(i). When we use the term “Class I area” in this section, we mean a “mandatory Class I Federal area.”

³ 45 FR 80084, 80084 (December 2, 1980).

⁴ Regional haze means visibility impairment that is caused by the emission of air pollutants from numerous anthropogenic sources located over a wide geographic area. Such sources include, but are not limited to, major and minor stationary sources, mobile sources, and area sources. 40 CFR 51.301.

⁵ 64 FR 35714, 35714 (July 1, 1999) (codified at 40 CFR part 51, subpart P).

⁶ 82 FR 3078 (January 10, 2017).

The CAA requires each state to develop a SIP to meet various air quality requirements, including protection of visibility.⁷ Regional haze SIPs must assure reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. A state must submit its SIP and SIP revisions to the EPA for approval. Once approved, a SIP is enforceable by the EPA and citizens under the CAA; that is, the SIP is federally enforceable.

B. Best Available Retrofit Technology (BART)

Section 169A of the CAA directs the EPA to require states to evaluate the use of retrofit controls at certain larger, often uncontrolled, older stationary sources in order to address visibility impacts from these sources. Specifically, section 169A(b)(2)(A) requires states to include in their SIPs such measures as may be necessary to make reasonable progress toward the natural visibility goal, including a requirement that certain categories of existing major stationary sources built between 1962 and 1977 procure, install, and operate the “Best Available Retrofit Technology” as determined by the states. Under the RHR, states are directed to conduct BART determinations for such “BART-eligible” sources that may reasonably be anticipated to cause or contribute to any visibility impairment in a Class I area.

On July 6, 2005, the EPA published the *Guidelines for BART Determinations under the Regional Haze Rule* (the “BART Guidelines”) to assist states in determining which sources should be subject to the BART requirements and in setting appropriate emission limits for each covered source.⁸ The process of establishing BART emission limitations follows three steps: first, identify the sources that meet the definition of “BART-eligible source” set forth in 40 CFR

⁷ CAA sections 110(a), 169A, and 169B, 42 U.S.C. 7410(a), 7491, and 7492(a).

⁸ 70 FR 39104; 40 CFR part 51, appendix Y.

51.301;⁹ second, determine which of these sources “emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area” (a source which fits this description is “subject to BART”); and third, for each source subject to BART, identify the best available type and level of control for reducing emissions. Section 169A(g)(7) of the CAA requires that states consider five factors in making BART determinations: (1) the costs of compliance; (2) the energy and non-air quality environmental impacts of compliance; (3) any existing pollution control technology in use at the source; (4) the remaining useful life of the source; and (5) the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. States must address all visibility-impairing pollutants emitted by a source in the BART determination process. The most significant visibility-impairing pollutants are sulfur dioxide (SO₂), NO_x, and particulate matter (PM).

A SIP addressing regional haze must include source-specific BART emission limits and compliance schedules for each source subject to BART. In lieu of requiring source-specific BART controls, states have the flexibility to adopt alternative measures, as long as the alternative provides greater reasonable progress towards natural visibility conditions than BART (i.e., the alternative must be “better than BART”).¹⁰ Once a state has made a BART determination, the BART controls must be installed and operated as expeditiously as practicable, but no later than 5

⁹ BART-eligible sources are those sources that have the potential to emit 250 tons or more of a visibility-impairing air pollutant, were not in operation before August 7, 1962, but were in existence on August 7, 1977, and whose operations fall within one or more of 26 specifically listed source categories. 40 CFR 51.301.

¹⁰ 40 CFR 51.308(e)(2) and (3).

years after the date of the EPA’s approval of the final SIP.¹¹ In addition to what is required by the RHR, general SIP requirements mandate that the SIP include all regulatory requirements related to monitoring, recordkeeping, and reporting for the BART emission limitations.¹²

C. Reasonable Progress Requirements

In addition to BART requirements, each regional haze SIP must contain measures as necessary to make reasonable progress towards the national visibility goal. As part of determining what measures are necessary to make reasonable progress, the SIP must first identify anthropogenic sources of visibility impairment that are to be considered in developing the long-term strategy for addressing visibility impairment.¹³ States must then consider the four statutory reasonable progress factors in selecting control measures for inclusion in the long-term strategy—the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of potentially affected sources.¹⁴ Finally, the SIP must establish reasonable progress goals (RPGs) for each Class I area within the State for the plan implementation period (or “planning period”), based on the measures included in the long-term strategy.¹⁵ If an RPG provides for a slower rate of improvement in visibility than the rate needed to attain the national goal by 2064, the SIP must

¹¹ CAA section 169A(g)(4), 42 U.S.C. 7491(g)(4); 40 CFR 51.308(e)(1)(iv).

¹² CAA section 110(a), 42 U.S.C. 7410(a); 40 CFR part 51, subpart K.

¹³ 40 CFR 51.308(d)(3)(iv).

¹⁴ CAA section 169A(g)(1), 42 U.S.C. 7491(g)(1); 40 CFR 51.308(d)(1)(i)(A).

¹⁵ 40 CFR 51.308(d), (f).

demonstrate, based on the four reasonable progress factors, why the rate to attain the national goal by 2064 is not reasonable and the RPG is reasonable.¹⁶

D. Consultation with Federal Land Managers (FLMs)

The RHR requires that a state consult with FLMs before adopting and submitting a required SIP or SIP revision.¹⁷ States must provide FLMs an opportunity for consultation, in person and at least 60 days before holding any public hearing on the SIP. This consultation must include the opportunity for the FLMs to discuss their assessment of impairment of visibility in any Class I area and to offer recommendations on the development of the RPGs and on the development and implementation of strategies to address visibility impairment. Further, a state must include in its SIP a description of how it addressed any comments provided by the FLMs. Finally, a SIP must provide procedures for continuing consultation between the state and FLMs regarding the state's visibility protection program, including development and review of SIP revisions and 5-year progress reports, and on the implementation of other programs having the potential to contribute to impairment of visibility in Class I areas.

E. Regulatory and Legal History of the 2012 Colorado SIP

On December 31, 2012, the EPA approved a regional haze SIP revision submitted by the State of Colorado on May 25, 2011. On February 25, 2013, the National Parks Conservation Association (NPCA) and Wild Earth Guardians (Guardians) filed petitions for review in the U.S. Court of Appeals for the Tenth Circuit of the EPA's final approval of the Colorado regional haze

¹⁶ 40 CFR 51.308(d)(1)(ii).

¹⁷ 40 CFR 51.308(i).

SIP.¹⁸ Among other things, Guardians and NPCA challenged the NO_x BART limit for Craig Unit 1. Tri-State and the State of Colorado joined the litigation as intervenors. After the court consolidated the cases for review, and after several months of court-supervised mediation, the parties reached a settlement under which Craig Unit 1 would be subject to a 0.07 lb/MMBtu NO_x limit, consistent with the installation of selective catalytic reduction (SCR) controls, by August 31, 2021.¹⁹ The settlement further required that the EPA ask the Tenth Circuit to vacate the previous approval of the Colorado SIP revision relating to Craig Unit 1 and remand the rule to the agency for further action. The court granted the EPA's request on December 22, 2014, and signed an order ending the litigation on August 15, 2015.

In accordance with the terms of the 2014 settlement, Colorado submitted a SIP revision to the EPA in 2015 to revise the Craig Unit 1 NO_x BART determination, emission limit, and associated compliance deadline. Specifically, Colorado determined that NO_x BART for Craig Unit 1 was an emission limit of 0.07 lb/MMBtu, which was based on the capabilities of SCR, and established an associated compliance date of August 31, 2021.

In 2017, Colorado submitted a regional haze SIP revision to the EPA reassessing the NO_x limit for the Craig Unit 1. The revisions were developed after discussions in 2016 between Tri-State, Guardians, NPCA, the State of Colorado, and the EPA, and require one of two possible NO_x BART compliance paths for Craig Unit 1 to either (1) shut down by December 31, 2025, or (2) convert to natural-gas firing by August 31, 2023. If Craig Unit 1 is converted to natural-gas firing, the NO_x emission limit will be 0.07 lb/MMBtu after August 31, 2021 (30-day rolling

¹⁸ *WildEarth Guardians v. EPA*, No. 13-9520 (10th Cir.) and *National Parks Conservation Association v. EPA*, No. 13-9525 (10th Cir.).

¹⁹ 79 FR 47636 (August 14, 2014).

average). If Craig Unit 1 is shut down, the NO_x emission limit will be 0.28 lb/MMBtu (30-day rolling average) until December 31, 2025. Colorado withdrew the 2015 SIP revision when it submitted the 2017 SIP revision that is the subject of this proposed action.

III. Craig Unit 1 – NO_x BART

A. Background

The 2011 regional haze SIP for Colorado established a NO_x BART emission limit for Craig Units 1 and 2. The Craig Station is located in Moffat County, approximately 2.5 miles southwest of the town of Craig. This facility is a coal-fired power plant with a total net electric generating capacity of 1264 megawatts (MW), consisting of three units. Units 1 and 2, which are subject to BART, are dry-bottom pulverized coal-fired boilers, each rated at a net capacity of 428 MW.

In the 2011 submittal, Colorado determined that selective non-catalytic reduction (SNCR) was BART for both Unit 1 and Unit 2, based on the cost-effectiveness and visibility improvement associated with this level of control. Colorado determined that SCR, a more stringent control technology, was not BART because its costs were too high. Colorado also determined that SNCR could achieve an emission limit of 0.27 lb/MMBtu (30-day rolling average) at both Unit 1 and Unit 2. Nevertheless, as a BART alternative, Colorado ultimately adopted a more stringent emission limit for Unit 2 (0.08 lb/MMBtu, 30-day rolling average, based on SCR) and a slightly less stringent limit for Unit 1 (0.28 lb/MMBtu, 30-day rolling average, based on SNCR). The EPA approved Colorado's BART alternative and NO_x BART emission limits into the SIP on December 31, 2012.²⁰

B. May 26, 2017 Submittal

²⁰ 77 FR 76871 (December 31, 2012).

On May 26, 2017, Colorado submitted a SIP revision containing amendments to the Colorado Code of Regulations, Regulation Number 3, Stationary Source Permitting and Air Pollutant Emission Notice Requirements, Part F, Regional Haze Limits – Best Available Retrofit Technology (BART) and Reasonable Progress (RP), Section VI, Regional Haze Determinations. In assessing BART for Craig Unit 1, Colorado determined that, under either a 20- or 30-year remaining useful life, NO_x BART would be an emission limit of 0.07 lb/MMBtu based on the installation of SCR.²¹ Colorado then reassessed NO_x BART for Craig Unit 1 under the two compliance paths associated with the 2016 settlement discussions: a shutdown in 2025 or a conversion to natural gas in 2023.²² After completing this reassessment, Colorado established the following amendments:

- Craig Unit 1 will either (1) close on or before December 31, 2025; or (2) cease burning coal no later than August 31, 2021, with the option to convert Unit 1 to natural-gas firing by August 31, 2023;
- In the case of a conversion to natural-gas firing, a 30-day rolling average NO_x emission limit of 0.07 lb/MMBtu (30-day rolling average) will be effective after August 31, 2021;
- The owner/operator of Craig Unit 1 will notify the State in writing on or before February 28, 2021, whether Unit 1 will cease operation or convert to natural gas;
- For both scenarios, Craig Unit 1 will be subject to an interim NO_x emission limit of 0.28 lb/MMBtu (30-day rolling average), effective January 1, 2017 (first compliance date

²¹ This limit, consistent with the 2014 settlement, was contained in the 2015 SIP submission. As noted previously, the State withdrew that submission when it submitted the 2017 SIP revision, but the State's justification for the 0.07 lb/MMBtu NO_x BART limit is retained in the 2017 SIP.

²² Colorado used the term "reassessment," and we interpret the term to mean that the state reassessed its previous BART determination under the differing future factual scenarios to see whether those facts were outcome determinative.

January 31, 2017), until December 31, 2025 if closing or August 31, 2021 if converting to natural gas; and

- Craig Unit 1 will be subject to an annual NO_x emission limit of 4,065 tpy effective December 31, 2019, which will be calculated on a calendar year basis beginning in 2020.

The amendments also excepted Craig Unit 1 from complying with the original SIP effective date of January 30, 2013, and associated compliance date 5 years later. The Colorado Air Quality Control Commission adopted the revisions on December 15, 2016 (effective February 14, 2017).

1. Shutdown

For the shutdown compliance path, the State considered two amortization periods to reflect the remaining useful life based on two possible projected compliance dates and the shutdown date of December 31, 2025. The first scenario used an amortization period of 4 years and 4 months, calculated as the difference between a projected compliance date of August 31, 2021, (which would have been required under the State's BART determination made in conjunction with the 2014 settlement) and the December 31, 2025 shutdown date. The associated emissions reductions, annualized cost, and cost-effectiveness values for SNCR and SCR using the amortization period is shown in Table 1.

Table 1. Craig Station Unit 1 NO_x Cost Comparison (4 years, 4 months of operation)

Control technology	Emissions reduction (tpy)	Annualized cost (\$)	Cost effectiveness (\$/ton)
SNCR	779	6,172,522	7,928
SCR	4,048	64,106,699	15,835

The second scenario used an amortization period of 8 years, to reflect the difference between the December 31, 2025 shutdown date and the December 31, 2017 compliance date that the 2012 SIP revision approval established.²³ The associated emissions reductions, annualized costs, and cost-effectiveness values for SNCR and SCR using the amortization period of 8 years is shown in Table 2.

Table 2. Craig Station Unit 1 NO_x Cost Comparison (8 years of operation)

Control technology	Emissions reduction (tpy)	Annualized cost (\$)	Cost effectiveness (\$/ton)
SNCR	779	4,755,842	6,109
SCR	4,048	41,476,535	10,245

Under both amortization scenarios, the remaining useful life of Craig Unit 1 is shorter than the 20-year amortization period used in the 2012 BART determination, which increases the annualized costs and cost-effectiveness values of the control technologies.²⁴ Based on this assessment, the State determined that neither SNCR or SCR is cost-effective when the remaining useful life is shortened to either 4 years and 4 months or 8 years, depending on the scenario selected, as a result of the shutdown of Craig Unit 1 on December 31, 2025.

2. Natural Gas Conversion

²³ The operation period begins in calendar year 2018 (December 31, 2017). The effective date of the EPA's approval of Colorado's regional haze SIP was January 30, 2013. As noted previously, the Tenth Circuit vacated the EPA's approval of the Craig portions of this SIP on December 22, 2014.

²⁴ The EPA finalized revisions to the Air Pollution Control Cost Manual (Chapters 1 and 2), <https://www.epa.gov/economic-and-cost-analysis-air-pollution-regulations/cost-reports-and-guidance-air-pollution>, in May 2016; these revisions change the amortization period for SCR from 20 years to 30 years. The amortization period for SNCR remains at 20 years.

For the natural gas conversion compliance path, Craig Unit 1 will cease to burn coal by August 31, 2021, with the option to convert to natural-gas firing by August 31, 2023. A 30-day rolling average NO_x emission limit of no more than 0.07 lb/MMBtu will apply after August 31, 2021.

C. The EPA's Evaluation of Craig Unit 1 Amendments

We are proposing to approve Colorado's BART reassessment for two possible compliance scenarios for Craig Unit 1: (1) shutdown or (2) conversion to natural gas.

As a threshold matter, we agree with the State's assessment that an emission limit of 0.07 lb/MMBtu would be NO_x BART for Craig Unit 1 under either a 20- or 30-year remaining useful life. But we also agree with the State that it is appropriate to reassess the NO_x BART limit under the shutdown and natural gas conversion scenarios, either of which would considerably shorten the remaining useful life of the existing coal-fired boiler.

While the RHR does not require states to consider source retirements or fuel switching (e.g., from coal to gas) as BART options, states are free to do so.²⁵ In other states, we have approved state-adopted requirements for the shutdown of a source or for switching fuels, which have usually been negotiated between the source operator and the state. We also have approved BART determinations that took into account the resulting shorter remaining useful life of the affected source.

We agree with Colorado's BART reassessment for both the shutdown and natural gas conversion scenarios. Specifically, we acknowledge and agree with the assumptions used to

²⁵ 40 CFR part 51, appendix Y.

calculate the two different amortization periods for the shutdown scenario. In past SIP actions, the EPA has measured amortization periods from the projected compliance date to the date of retirement. In this instance, the compliance date for SCR is August 31, 2021, which would have been required under the State's BART determination made in conjunction with the 2014 settlement, resulting in an amortization period of four years and four months as reflected in Colorado's first amortization period scenario (Table 1). For SNCR, the projected compliance date would be earlier, thus resulting in a longer amortization period, albeit one shorter than 8 years; the 8-year amortization period is therefore a conservative approach that understates the annualized costs of both SCR and SNCR.

When considering the shortened remaining useful life under either amortization scenario associated with Craig Unit 1 shutting down by December 31, 2025, the EPA finds Colorado's determination reasonable that neither SNCR or SCR is cost effective. Therefore, we are proposing to approve Colorado's NO_x BART reassessment that if Craig Unit 1 shuts down by December 31, 2025, neither SNCR or SCR would be BART due to the high cost-effectiveness values associated with a shortened remaining useful life. We are also proposing to approve the alternative compliance path that allows Craig Unit 1 to convert to natural-gas firing by August 31, 2023, and cease burning coal by August 31, 2021, with an associated NO_x BART emission limit of 0.07 lb/MMBtu (30-day rolling average) on that date, because this emission limit is equivalent to the one that the State found would be BART under a 20- or 30-year remaining useful life scenario. Accordingly, natural-gas firing is another means by which NO_x BART can be met for Craig Unit 1. Finally, we are proposing to approve Colorado's requirement that an annual NO_x limit of 4,065 tpy will be effective on December 31, 2019, for Craig Unit 1 because

this additional measure would strengthen the SIP as there currently is no regional haze annual NO_x limit for Unit 1.

IV. Nucla – NO_x Reasonable Progress

A. Background

The Tri-State Nucla Station is located in Montrose County approximately 3 miles southeast of the town of Nucla, Colorado. The Nucla facility consists of one coal-fired steam-driven electric generating unit, Unit 4, with a rated electric generating capacity of 110 MW (gross).

In 2006, Tri-State installed a small-scale SNCR system on Unit 4 that injects anhydrous ammonia to achieve NO_x reductions. The SNCR system is used when NO_x emissions approach 0.4 lb/MMBtu; rates above this result in mass emissions that approach the annual permitted NO_x limit of 1,987.9 tpy (12-month rolling average). Although Colorado, in its 2011 submittal, determined that full-scale SNCR and SCR were technically feasible for reducing NO_x emissions at Nucla Unit 4, the State determined that neither control technology was necessary for reasonable progress based on the uncertainty of the control efficiency for SNCR and what Colorado determined would likely be excessive costs associated with SCR. Instead, Colorado determined that Nucla Unit 4 should meet an emission limit of 0.5 lb/MMBtu (30-day rolling average) as expeditiously as practicable, but in no event later than December 31, 2017, based on consideration of the four reasonable progress factors. The EPA approved this emission limit into the SIP on December 31, 2012, as meeting the relevant regional haze requirements.

B. May 26, 2017 Submittal

The May 26, 2017 submittal includes the following amendments to the Colorado Code of Regulations, Regulation Number 3, Stationary Source Permitting and Air Pollutant Emission Notice

Requirements, Part F, Regional Haze Limits – Best Available Retrofit Technology (BART) and Reasonable Progress (RP), Section VI, Regional Haze Determinations, related to Nucla:

- Nucla will close on or before December 31, 2022; and
- Nucla will be subject to an annual NO_x emission limit of 952 tpy effective January 1, 2020, on a calendar year basis beginning in 2020.

The amendments also removed Nucla's original compliance date of December 31, 2017, and the requirement for a proposed compliance schedule from Nucla due within 60 days after the EPA's approval of the reasonable progress portion of Colorado's regional haze SIP. The current NO_x emission limit of 0.5 lb/MMBtu (30-day rolling average) is not amended.

C. The EPA's Evaluation of Nucla Amendments

Because the amendments, requiring Nucla to shut down on or before December 31, 2022, and meet an annual NO_x limit of 952 tpy by January 1, 2020, do not alter the previously approved 0.5 lb/MMBtu (30-day rolling average) emission limit requirement, the closure of Nucla achieves greater NO_x emission reductions than the relevant portions of the 2012 SIP, (which did not previously include any shutdown date). We therefore propose to approve Colorado's revision related to Nucla.

V. Coordination with FLMs

Class I areas in Colorado are managed by either the U.S. Forest Service (FS) or the U.S. National Park Service (NPS). As described in section II.D of this proposed rule, the Regional Haze Rule grants the FLMs a special role in the review of regional haze SIPs. Under 40 CFR 51.308(i)(2), Colorado was obligated to provide the FS and the NPS with an opportunity for consultation in development of the State's proposed SIP revisions. Colorado provided the FS and

the NPS with access to the proposed revisions to Regulation Number 3, Part F on January 12, 2017.²⁶ The FLMs did not provide any comments on the proposed revisions.

VI. The EPA’s Proposed Action

In this action, the EPA is proposing to approve SIP amendments to Regulation Number 3, Part F, Section VI, shown in Table 3, submitted by the State of Colorado on May 26, 2017, addressing the NO_x BART and reasonable progress requirements for Craig Unit 1 and Nucla, respectively.

Table 3 - List of Colorado Amendments that EPA is Proposing to Approve

Amended Sections in May 26, 2017 Submittal Proposed for Approval
<u>Regulation Number 3, Part F</u> : VI.A.2 (table); VI.A.3; VI.A.4; VI.B.2 (table); VI.B.3; VI.B.4; VI.D; VI.E

VII. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the amendments described in section VI. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 8 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

VIII. Statutory and Executive Order Reviews

²⁶ Email between Colorado and NPS, January 2017.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not proposed to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 16, 2018.

Debra Thomas,
Acting Regional Administrator,
Region 8.

[FR Doc. 2018-08622 Filed: 4/25/2018 8:45 am; Publication Date: 4/26/2018]